



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
First Regular Session

Senate: COM DP 8-0-1-0 | 3rd Read 30-0-0-0

House: APPROP DPA/SE 11-2-0-0

SB 1064: ~~contractor license numbers; advertising; exception~~

NOW: earned release; credits; prisoners

Sponsor: Senator Mesnard, LD 17

House Engrossed

Overview

Modifies the earned release credits program available to eligible prisoners.

History

The Arizona Department of Corrections (ADC) is required to establish a transition program that provides eligible inmates with transition services in the community for up to ninety days ([A.R.S. § 31-281](#)).

Every prisoner who is in an earned release credit class is allowed an earned release credit. The earned release credit is three days for every seven days if the following apply: 1) the prisoner has been sentenced for possession or use of marijuana, a dangerous drug or a narcotic drug; 2) the prisoner has completed a drug treatment or self-improvement program during their imprisonment; and 3) the prisoner has not been previously convicted of a violent or aggravated felony ([A.R.S. § 41.1604.07](#)).

The ADC Director (Director) can forfeit all of a prisoner's earned release credits if the prisoner fails to adhere to the rules of the Department or fails to demonstrate a continual willingness to volunteer for or successfully participate in a work, educational, treatment or training program ([A.R.S. § 41.1604.07](#)).

A prisoner who does not achieve an eighth-grade functioning literacy level is not allowed to start the term of community supervision until the following occurs: 1) an eighth-grade functioning literacy level is achieved; 2) the prisoner is released into and enrolls in the transition program established by ADC that helps the prisoner achieve functional literacy; or 3) the prisoner serves the full term of imprisonment imposed by the court; whichever occurs first ([A.R.S. § 41.1604.07](#)).

If a court or a disciplinary hearing held after a review from the Attorney General's office determines that a prisoner has brought a claim without substantial justification, the prisoner will forfeit five days of their earned release credit ([A.R.S. § 41.1604.07](#)).

ADC is required to annually report the recidivism rate of prisoners released and report information relating to prisoners at the end of each fiscal quarter ([A.R.S. § 41.1604.07](#)).

Provisions

1. Requires ADC to notify victims who request post-conviction notices of the prisoner's earliest release date within 30 days after the prisoner qualifies for earned release credits. (Sec. 1)
2. Requires ADC to make literacy programming and standardized assessments available to inmates who do not demonstrate functional literacy at an eighth-grade level before becoming eligible for release due to earned release credits, unless specific conditions apply. (Sec. 2)

3. Requires ADC to make the eligibility determination for release and provide the standardized literacy assessment testing before the earliest date that the inmate becomes eligible for release unless specific conditions apply. (Sec. 2)
4. Removes language classifying an inmate as ineligible for release due to earned release credits and from beginning a term of community supervision if the inmate does not demonstrate functional literacy at an eighth-grade level. (Sec. 2, 3, 4)
5. Allows eligible prisoners to earn release credits at the rate of one day for every six days served. (Sec. 4)
6. Allows eligible prisoners *sentenced for specific drug offenses* to earn release credits at the rate of *five days for every six days* if the prisoner meets the following requirements:
 - a) Was not sentenced for a serious or violent offense or a dangerous crime against children; and
 - b) Participated in eligible programs, including a skills-based work program, programs relating to substance abuse treatment, major self-improvement, psycho-education, formal mentoring and reentry, or completion of a program in which the prisoner achieves an occupational license or certificate. (Sec. 4)
7. Allows eligible prisoners who were *not* sentenced for an eligible drug offense to earn release credits at the rate of *two days for every six days* if the prisoner meets the following requirements:
 - a) Was not sentenced for an excluded offense; and
 - b) Participated in eligible programs that have a demonstrated record in reducing recidivism, including a skills-based work program, programs relating to substance abuse treatment, major self-improvement, formal mentoring and reentry, or completion of a program in which the prisoner achieves an occupational license or certificate. (Sec. 4)
8. States a previous conviction for an excluded only applies to a prisoner who committed the offense when the prisoner was eighteen years of age. (Sec. 4)
9. Specifies the modified earned release credit program does not apply to a prisoner who was sentenced for an excluded offense after the effective date of this bill. (Sec. 4)
10. Enables a prisoner whose release credits were forfeited to apply to restore the earned release credits if certain conditions are met. (Sec. 4)
11. Allows ADC to determine if a prisoner, to the extent the prisoner is able, should pay for the cost of program participation. (Sec. 4)
12. Authorizes the Director to order an inmate to participate in a literacy program as part of the conditions of community supervision if the inmate has not demonstrated functional literacy at an eighth-grade literacy level. (Sec. 4)
13. Stipulates a prisoner will forfeit five days of earned release credits if the prisoner submits a claim *knowing* it is without substantial justification. (Sec. 4)
14. Requires ADC to assess each prisoner within 15 days of the prisoner's admission to determine the type of programming appropriate to the prisoner and assign the prisoner to that programming. (Sec. 4)
15. Requires ADC, by December 1, 2024, to expand programming offered to all prisoners. (Sec. 4)
16. Requires ADC, by December 1, 2022, to expand programming so all prisoners who are eligible to earn earned release credits have programs. (Sec. 4)

17. Requires the Auditor General to complete an annual audit of ADC programming and submit an annual report to the Legislature, and outlines the reporting requirements. (Sec. 4)
18. Requires ADC to report annually to the Governor, Legislature and Secretary of State specific information on the earned release credits program, including the following new requirements:
 - a) The number of prisoners *by institution* who received earned release credits and participated in eligible programming;
 - b) The number of prisoners *by institution* who received substance abuse treatment;
 - c) The number of prisoners *by institution* who are eligible for release and who were released;
 - d) The number of earned release credits forfeited by prisoners each month and the reason why the earned release credits were forfeited;
 - e) A list of programs and programming *by institution* that a prisoner may earn release credits for; and
 - f) The number of days of earned release credits earned by prisoners by institution each month and a calculation of the total number of days prisoners were not incarcerated as a result of earning release credits. (Sec. 4)
19. Requires the Joint Legislative Budget Committee (JLBC) to submit an annual report to the Legislature and Governor. (Sec. 4)
20. Requires JLBC's annual report to include the following information:
 - a) The amount of monies saved by the state as a result of prisoners earning earned release credits and being released on community supervision;
 - b) The amount of monies saved as a result of a decrease in recidivism and that may be attributed to a prisoner's participation in the rehabilitative and work programs; and
 - c) A description of how the reduced expenditures and the annual savings created by the earned release credits were reinvested. (Sec. 4)
21. Modifies annual reporting requirements that ADC must submit to the Legislature. (Sec. 5)
22. Contains a legislative intent clause. (Sec. 6)
23. Contains an applicability clause, stating the following:
 - a) The bill applies to prisoners who are serving a term of imprisonment for an eligible drug offense on or after the effective date;
 - b) Only prisoners who are convicted, on or after the effective date of this bill, for an offense other than an eligible drug offense are eligible to earn release credits at the rate of two days for every six days; and
 - c) On the effective date of the act, a prisoner who is serving a term of imprisonment for an eligible drug offense and who met the specified program eligibility requirements before the effective date of this bill shall begin earning earned release credits. (Sec. 7)
24. Defines *excluded offense*. (Sec. 4)
25. Makes technical and conforming changes. (Sec. 1, 2, 3, 4)

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note